IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10598 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KARUNASHANKER MAFATLAL DAVE

Versus

STATE OF GUJARAT

Appearance:

MR VB PANCHAL for Petitioner No. 1

Mr. Pitamber Abichandani, AGP for Respondents.

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 07/11/2001

ORAL JUDGEMENT

Rule. The learned A.G.P., Mr. Pitamber Abichandani, waives service of Rule for the respondents.

2. The petitioner is a Bailiff serving in the District Court, Ahmedabad (Rural) and has challenged the decision dated 12th of September 2001 of District Judge, Ahmedabad (Rural), Ahmedabad, whereby he has been directed to pay up the amount of standard rent by monthly instalments of Rs. 2,711/- each. The Nazir of the

District Court is directed to deduct this amount from the salary of the petitioner. It is clear on record, that when he was allotted the quarter in question he was a Peon; thereafter he was promoted to the post of Bailiff; and on promotion he was transferred to one taluka town. It is contended that because of family circumstances especially sickness of dependent family member undergoing treatment in hospital at Ahmedabad he was compelled to continue with the possession of the quarter and in turn he was treated as unauthorised occupant.

3. Though he has prayed that the recovery of the standard rent of the quarter retained is bad in law yet the respondents have regularised the same quarter on his retransfer to the District Court at Ahmedabad. However, in view of the contents of the representation made by the present petitioner Annexure "M" at Page 55, the pointed query was raised to the ld. counsel for the petitioner and he has fairly conceded that the petitioner is even today ready to pay the standard rent assessed by the authority but in view of the net carry-home salary of Rs.3,840/-, the amount of monthly instalment should be reduced so that he may not have to face extreme hardship. In short, the petitioner has requested this Court to exercise its equitable discretionary jurisdiction and permit him to pay the amount by way of monthly instalments of Rs. 1000/- each.

4. Considering the remaining length of service of the present petitioner and the fact that he has already paid two instalments, the learned A.G.P. states that the petitioner can pay the balance amount in monthly instalments of Rs.1,000/- and the last instalment for lesser remaining amount.

5. In view of the above submissions, the order bearing No. 517 of 2001 dated 12th September 2001 at Annexure "N" of District Judge, Ahmedabad (Rural) is hereby quashed and set aside, and the petitioner is permitted to pay the remaining amount of standard rent by way of monthly instalments of Rs. 1,000/- leaving the last instalment for remaining lesser amount. It will be open for the respondent No.3 District Judge to deduct this amount from his salary every month till the entire outstanding amount is realised.

6. With the abovesaid direction, this petition is partly allowed. The Rule is made absolute to the above extent. No costs.

rmr. [C.K. Buch, J.]